

OFFICE OF THE NEVADA ENVIRONMENTAL RESPONSE TRUST TRUSTEE

Le Petomane XXVII, Inc., Not Individually, But Solely as the Nevada Environmental Response Trust Trustee

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DRAFT

August 29, 2016

VIA ELECTRONIC MAIL

Mr. James Dotchin
Bureau of Industrial Site Cleanup
Nevada Division of Environmental Protection
2030 E. Flamingo Rd, Suite 230
Las Vegas NV 89119

RE: Finding and Order Requiring Engineering Evaluation/Cost Analysis
Nevada Environmental Response Trust
Henderson, Nevada
NDEP Facility ID #H-000539

Dear Mr. Dotchin:

As ordered by the Nevada Division of Environmental Protection (NDEP), this letter transmits the Nevada Environmental Response Trust (NERT or the "Trust") Engineering Evaluation / Cost Analysis (EE/CA) for the treatment of groundwater (the "Proposed Action") extracted by Southern Nevada Water Authority (SNWA) during SNWA's construction of the Sunrise Mountain Weir and Historic Lateral Weir (collectively, the "Weirs").

Consistent with prior direction received from NDEP, this EE/CA assumes that SNWA's dewatering of the Weirs may happen simultaneously at a combined rate not to exceed 6,900 gallons-per-minute (GPM). After an initial evaluation, it was determined that construction of a treatment system adjacent to each of the weirs (i.e. constructing and operating two 6,900 GPM facilities) was cost prohibitive, this EE/CA presents only a single physical siting option with a single treatment system capable of treating 6,900 GPM located adjacent to Lift Station #1 associated with the current NERT Groundwater Extraction and Treatment System.

The Trust has identified four critical items that must be resolved prior to implementation of the Proposed Action:

1. As you are aware, NDEP has required NERT have the treatment system ready to accept water by June 1, 2017, and that this date was dictated by SNWA as the earliest date that dewatering activities could commence. As you are also aware, the United States Bureau of Reclamation (US BOR) recently indicated that all permitting required by this Proposed Action on land subject to the jurisdiction of US BOR be facilitated by SNWA through its ongoing permitting process associated with the construction of the Weirs. Subsequent to SNWA acquiring the required permits for its construction of the Weirs and those required by this Proposed Action, NERT will need to enter into an agreement with SNWA for the required access. Acknowledging the above, the Trust will require all permitting and access matters be resolved prior to January 7, 2017 to enable readiness of the treatment system by June 1, 2017. Due to the inherent complexities with this arrangement and the overall project, the Trust will establish a bi-weekly conference call (or as frequently as required) with NDEP, SNWA and US BOR (as necessary), in an effort to ensure ongoing coordination between all parties.

2. The Trust will require finalization of a National Pollutant Discharge Elimination System (NPDES) permit prior to completing the design of the treatment system as the various technical criteria defined in the permit will play a critical role in this design. As you are aware, the Trust has already engaged in preliminary discussion with NDEP Bureau of Water Pollution Control (NDEP-BWPC) regarding this matter, and based upon those discussions, the Trust has been using its current NPDES permit as criteria for the EE/CA and the preliminary design activities already in progress. It is the intent of the Trust to fully engage NDEP-BWPC through the submittal of a NPDES permit application after receipt of approval of the Proposed Action's budget, as discussed later in this letter. The Trust will require finalization of the permit technical criteria prior to October 15, 2016 to enable the readiness of the treatment system by June 1, 2017. Furthermore, the Trust will require issuance of the permit prior to May 1, 2017.
3. The Trust will require access rights from Basic Environmental Corporation (BEC) to expand the perimeter of Lift Station #1 to construct the treatment system. Additional rights will need to be obtained from BEC for pipeline conveyances into and out of Lift Station #1. The Trust has already begun dialogue with BEC on this matter; however, BEC has yet to fully engage with NERT and the Trust may request direct assistance from NDEP. The Trust will require these rights from BEC no later than January 7, 2017 to enable the readiness of the treatment system by June 1, 2017.
4. The trust will require access rights from both US BOR and BEC to collect critical data required for the design of the Proposed Action. The Trust will require these rights from both US BOR and BEC no later than September 30, 2016 to enable the readiness of the treatment system by June 1, 2017. Due to the relative immediate need for this access, the Trust would like to request NDEP assist with this matter.

While acknowledging that NDEP has not yet selected a final Response Action and modifications may be necessary due to public comment on the EE/CA, as we discussed, and in order to meet NDEP's timeline, it is the desire of NERT to obtain a single budget approval from NDEP for the complete implementation of this Proposed Action, including the funding assumed at this time to be necessary for the ongoing operation and maintenance of the treatment system as long as dewatering operations are conducted by SNWA. Accordingly, at this time the Trust requests a budget approval of \$38M to construct the treatment system, adhere to SNWA's timeline and comply with the NDEP Order. When evaluating this amount, please note the following assumptions made by NERT:

- The costing identified in this EE/CA do not include all expected costs for siting, planning, permitting, management, design or operation to complete the project. Project specific components not built into the budgetary numbers include but are not limited to Trustee and legal services; federal NEPA requirements including surveys and mitigation measures if required; clarification of lead permitting agency and jurisdiction on site lands; complete federal, state, and local permitting; schedule delays due to permitting and access approvals; treatment requirements beyond those identified in the EE/CA; conveyance piping routing modifications due to environmental, engineering, or access constraints; or process modifications required based on additional requirements identified during detailed design or to provide contingency needed to accommodate flow or water quality variations. Accordingly, the costs presented in the EE/CA are expected to be within plus 50% and minus 30% of actual costs, commensurate with the conceptual level of design available at this level of evaluation. For the purposes of this \$38M request, the Trust has included all contingency at the full 50% and a 30% contingency on all capital items.
- As SNWA is unable to provide the Trust an expected duration of dewatering activities other than "4 to 14 months", this request assumes the treatment system will need to be operated for 16 months.
- As SNWA is unable to provide the Trust an exact schedule of pumping rates, nor is NERT able to engage with SNWA's contractor regarding pumping rates, this request assumes the full flow of 6,900 GPM for the entirety of the 16 month period.
- As neither SNWA nor the Trust are able to determine the exact nature of influent water quality, this request makes certain assumptions (as noted in the EE/CA), inclusive of an average perchlorate concentration of 1.3 ppm.

Consistent with our conversations, this \$38M budget request represents a “worst case scenario” number as it is highly unlikely that any one of these assumptions will materialize in the field. Due to the nature of the relationship between the Trust and NDEP and the budgetary approval required by the Trust Agreement, it was agreed that this approach would yield the Trust the greatest flexibility in its desire to comply with the NDEP Order. In an effort to comply with NDEP’s request to provide a more conservative costing of the Proposed Action based upon the Trust’s technical analysis, an estimated total cost of \$15M could be assumed. This alternative costing is based upon an average of 2,000 GPM over a duration of 6 months. It is very important to note that this alternative costing is provided for informational purposes only and is in no way guaranteed by the Trust.

Please keep in mind that the Trust will make every effort to minimize project expenditures to the extent possible and that all costs associated with the project will be tracked and presented to NDEP integral to our established expense reporting procedures.

As previously approved by NDEP, and in an effort to comply with the Order and the required time constraints imposed by SNWA, the Trust has already authorized preliminary permitting and design exercises related to the implementation of the Proposed Action under the existing L09 task budget totaling \$246,000. It should be noted, however, that the Trust recognizes that NDEP has yet to order the implementation of this action and it is still subject to public comment.

To keep the project on schedule, the Trust will require an approval of \$600,000 against this total request to conduct various pre-design investigations and to further the system design. The Trust will then require approval of the full budget no later than September 30, 2016. Please understand that the Trust will continue to incur costs under the L09 task, as described above, until alternative direction is received from NDEP.

We look forward to discussing this project.

If you have any questions or concerns regarding this matter, feel to contact me at (312) 498-2800 or at andrew.steinberg@nert-trust.com.

Office of the Nevada Environmental Response Trust

By: _____

Andrew W. Steinberg, not individually but solely as Vice-President
of Le Petomane XXVII, Inc., not individually but solely as
the Nevada Environmental Response Trust Trustee

cc: Jay Steinberg, as President of the Nevada Environmental Response Trust Trustee and not individually
Steve Clough, Nevada Environmental Response Trust
Dave Emme, NDEP Administrator
Greg Lovato, NDEP Deputy Administrator
Valerie King, Nevada State Environmental Commission, Carson City
Jasmine Mehta, Senior Deputy Attorney General, Attorney General's Office, Carson City
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